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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,755	08/31/2001	Hiroyuki Marumori	16869N-033200US	2739

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EXAMINER	
HUBER, PAUL W	

ART UNIT	PAPER NUMBER
2653	4

DATE MAILED: 04/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/944,755	MARUMORI ET AL.	
	Examiner	Art Unit	
	Paul Huber	2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 April 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6 and 10-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5,10 and 11* is/are rejected.

7)☒ Claim(s) *4,6 and 12* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 2.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 5, and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Ito et al (USP-6,463,022).

Ito et al discloses an information recording apparatus (see figure 2) for recording information to a recording medium 102. A driver means 110 writes and read the information to and from the recording medium 102. A record medium determining means 200 determines the kind of the record medium. Ito et al further teaches a controlling means 104 for controlling the information recording apparatus. Additionally, a finishing processing means executes a finishing processing of the recording medium 102 via the driver means 110, wherein the finishing processing means switches the finishing processing based on the kind of the record medium.

"The recording and reproducing apparatus automatically discriminates whether the loaded optical disk is the WO type or the rewritable type and automatically switches a control mode to either one of the control systems of the WO type and the rewritable type and controls. ...In case of the rewritable type optical disk, the data can be re-recorded (overwritten) to the same location. The contents of a directory in which a data file or file management information has been stored or its arrangement can be changed. However, in the WO type, since data is not re-written to the same location, a process that is peculiar to the WO type is necessary. In the embodiment, on the basis of the disk discrimination result, a processing method is changed to a processing method according to the disk, thereby coping with it" (col. 5, lines 29-48). Ito et al thereby teaches that "when said recording medium is the WO type information recording medium, ... and when said unrecorded state is detected by said detecting means,

searching of the subsequent recording area is finished so that a final recording area is determined and a file managing information recorded at said final recording area is obtained" (see col. 12, lines 15-25). Therefore, the finishing processing means switches the finishing processing based on the kind of the recording medium as claimed.

Regarding clams 5 & 10, Ito et al discloses that "as for the timing to record the intermediate information, it can be recorded when the optical disk is ejected from the apparatus or when there is a fear that the apparatus cannot record information to the optical disk, for example, when a residual amount of a battery decreases or the like" (col. 8, lines 45-49). Accordingly, Ito et al teaches a power supply determining means which determines a power amount supplied by a battery for supplying the power as claimed in order to determine the recording timing of the intermediate information. Furthermore, it is deemed inherent that when the power is adequately supplied by the battery, the finishing processing means will execute the finishing processing to the record medium as claimed, i.e., because the apparatus is not short on power and is enabled to correctly perform a recording operation. Therefore, Ito et al discloses that when the power amount supplied by the battery is larger than a power amount used in the finalizing processing, i.e., the residual power amount of battery enables the apparatus to correctly record information to the optical disk, the finishing processing means executes the finishing processing as claimed.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ito et al, as applied to claim 1 above, in further view of Official Notice.

Ito et al discloses the invention as claimed including that a power supply to the information recording apparatus is from a battery (see col. 8, lines 49), but fails to specifically teach that an alternative form of power supply used is from an AC power supply. However, it is manifestly well known in the art that information recording/reproducing apparatuses of the type disclosed by the applicant include an AC power supply for the purpose of enabling the user of the apparatus to charge the battery and further allow the user to use an alternative and readily available form of power, and Official Notice is hereby given.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Ito et al such that the apparatus further includes an alternative form of power supply which is from an AC power supply. A practitioner in the art would have been motivated to do this for the purpose of enabling the user of the apparatus to charge the battery and further allow the user to use an alternative and readily available form of power.

Relative to the doctrine of Official Notice, see In re Fox, 176 U.S.P.Q. 340 at 341 (CCPA-1973).

Therefore, it is inherent in the apparatus as modified above, that when the power is supplied by an AC power supply, the finishing processing means will execute the finishing processing to the write once type record medium as claimed, i.e., because the apparatus is not short on power and is enabled to correctly perform a recording operation.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art of record considered as a whole fails to teach or suggest an optical recording/reproducing apparatus for recording/reproducing from either a rewritable optical disk or a WO optical disk.

Claims 4, 6, and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication should be directed to Paul Huber at telephone number 703-308-1549.

Paul Huber
Primary Examiner
Art Unit 2653